TL 7378

COMISSÃO PARA OS DIREITOS DO POVO MAUBERE

PORTUGAL E A QUESTÃO DE TIMOR-LESTE

PRINCÍPIOS

1. Os anos 90 foram proclamados pelas Nações Unidas "a década da descolonização". A lista de territórios não autónomos elaborada pela ONU contém hoje, felizmente, um pequeno número de situações. Entre elas, encontra-se o caso de Timor-Leste, o território mais populoso de todos os considerados.

2. Em dois outros casos as Nações Unidas estão envolvidas na elaboração, preparação e apoio aos processos de autodeterminação dos respectivos povos: o Sahara Ocidental e a Eritreia. Relativamente ao primeiro, a Assembleia Geral aprovou um detalhado Plano de Paz que deve conduzir à realização de um referendum e uma força de capacetes azuis (MINURSO) tem estado estacionada no território desde o acordo de cessar-fogo (6 de Setembro de 1991). Apesar das dificuldades, ainda no passado dia 2 de Março o Conselho de Segurança aprovou por unanimidade a resolução 809 (1993) solicitando ao Secretário-Geral que intensifique os contactos com as partes envolvidas - Marrocos e a Frente Polisário - de modo a que o referendum se possa realizar, o mais tardar, até ao final do corrente ano. Quanto à Eritreia, o colapso do regime etíope tornou possível a realização de uma Conferência sobre a Paz e a Democracia em Addis Abeba (Julho 1991) que formalmente reconheceu o direito do povo da Eritreia à autodeterminação, através de um referendum supervisionado internacionalmente. Em 16 de Dezembro último a Assembleia Geral decidiu constituir uma Missão de Verificação do Referendum na Eritreia (UNOVER), estando o escrutínio marcado para Abril próximo.

3. O direito do povo de Timor-Leste à autodeterminação é claramente reconhecido por resoluções do Conselho de Segurança e da Assembleia Geral, assim como pela Constituição da República Portuguesa. Em toda a comunidade internacional, apenas o governo australiano reconheceu "de jure" a integração do território na Indonésia.

ENQUADRAMENTO

1. **O povo de Timor-Leste luta há 18 anos pelo seu direito à autodeterminação e independência.** Depois de um colapso das forças organizadas da guerrilha, em 1978-79, a Resistência reaparece um ano mais tarde e tenta uma negociação política com as forças de ocupação, faz agora precisamente dez anos (23 Março 1983). Quebrado o cessar-fogo então acordado, segue-se uma terrível

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operação militar e de segurança na qual morreram, desapareceram e foram presos milhares de nacionalistas. No ano seguinte o dirigente da Resistência, Xanana Gusmão, faz um apelo à unidade nacional e enceta o caminho que há-de levar ao nascimento da frente urbana da luta, amplamente participada pela nova geração, já criada e formada sob o colonialismo indonésio. Sucessivas manifestações públicas nas ruas de Dili (protestos estudantis em 1987 e 88, visita do Papa em Outubro de 1989, visita do embaixador americano John Monjo em Janeiro de 1990) são um sinal visível de uma nova vitalidade da Resistência, que se preparou seriamente para receber a delegação do Parlamento português prevista para Outubro de 1991. O massacre de Santa Cruz trouxe ao mundo as imagens da convicção e da coragem políticas mas também da natureza do regime ocupante. Intensificaram-se os apelos dos dirigentes timorenses a uma solução política, elaborada no âmbito das Nações Unidas, com garantias de dignidade para todas as partes envolvidas e desejos de uma cooperação regional sincera no futuro (ver a Mensagem do Conselho Nacional da Resistência Maubere à X Cimeira do Movimento dos Não-Alinhados, Setembro de 1992). A prisão do comandante Xanana Gusmão e de centenas de outros timorenses em Novembro e Dezembro de 1992 provocou uma retracção, mas não uma ruptura, das forças organizadas da Resistência, ao mesmo tempo que fortaleceu a profunda recusa da ocupação e mostrou, uma vez mais, a natureza do regime e do colonialismo indonésios (ver carta de Ma'Huno aos jornalistas portugueses). É, sem dúvida, um momento de encruzilhada.

2. A situação actual, no terreno, caracteriza-se por um isolamento quase total (em 1992 foram recusadas as visitas de uma delegação da Dieta japonesa, de senadores norte-americanos, de uma delegação de parlamentares australianos, da Amnistia Internacional, etc.), por uma repressão generalizada e feroz, por uma ruptura entre as forças de ocupação e os seus pontos de apoio na relação com a sociedade timorense (ex-governador Mário Carrascalão, funcionários públicos, dirigentes locais, comerciantes, Igreja católica). Os relativos equilíbrios mantidos desde a chamada abertura da "27ª província" (1 Janeiro de 1989) foram rompidos pelo massacre de 12 de Novembro, a que se seguiu a nomeação de um novo comandante militar (Theo Syafei), a substituição do governador e a prisão de Xanana Gusmão (ver relatório anual do Departamento de Estado norte-americano). Timor-Leste tornou-se num verdadeiro barril de pólvora. Os ocupantes estão cada vez mais isolados, só podem comprar e aterrorizar. E sob o medo arde cada vez mais o desejo de justiça.

3. Na Indonésia, Timor-Leste já não é a "província" onde nada se passa de relevante. Os problemas de segurança, as violações de direitos humanos, o debate internacional, a condenação da Indonésia, tornaram-se parte da comunicação social e individual, apesar da vigilância e da censura. Algumas forças sociais (organizações de defesa dos direitos humanos, estudantes, políticos ligados ao PDI e à maior organização muçulmana indonésia) têm colocado frontalmente a questão dos direitos dos timorenses e condenado os abusos praticados pelas forças militares. A classe dirigente indonésia começa hoje a ser permissiva à necessidade de encontrar uma solução política para o problema pois como o reconheceu publicamente o próprio MNE Ali

Alatas, a questão "é uma pedra no sapato" de Jacarta... que há que deitar fora de alguma maneira. Os custos políticos para a Indonésia centram-se no desgaste da sua imagem a nível internacional e na percepção que alguns sectores de oposição começam a ter de que o apoio aos direitos dos timorenses pode contribuir decisivamente para a democratização do país.

4. O massacre de 12 de Novembro marcou uma viragem no conhecimento internacional da questão de Timor-Leste. Apesar da timidez das condenações se comparadas com o genocídio praticado ao longo destes 18 anos, apesar da política de dois pesos e duas medidas justificada pelos interesses comerciais, estratégicos ou outros, não há dúvida de que a imprensa dos países ocidentais, os parlamentares, as organizações não-governamentais, reconheceram publicamente os direitos do povo timorense, incluindo o seu direito à autodeterminação e apelaram à mudança de posição política dos respectivos governos. A Holanda, a Dinamarca e o Canadá bloquearam temporariamente parte da ajuda económica. Os EUA cortaram o financiamento destinado ao treino de militares indonésios. A Comunidade Europeia congelou o acordo de terceira geração a celebrar com a ASEAN. Pequenos gestos, mas novos. Jacarta comprometeu-se a pôr em prática um certo número de medidas destinadas a melhorar a situação dos direitos humanos no território, não cumpriu nem uma. A condenação, seja sob que forma fôr, é inevitável. A sua repercussão em termos da opinião pública, por um lado e das concessões de ajuda, por outro, tende a criar sempre maior pressão. O caminho é longo, mas quanto tempo mediará entre o massacre de Soweto e uma África do Sul democrática?

POR UMA SOLUÇÃO NEGOCIADA NO RESPEITO PELA LEGALIDADE INTERNACIONAL

1. Nos últimos anos, os timorenses foram sempre claros: esta é uma luta prolongada e o seu fim tem de ser negociado politicamente, no âmbito das Nações Unidas. Se quanto a este último aspecto ninguém parece ter dúvidas, quanto ao primeiro colocam-se algumas interrogações. O sofrimento do povo não exige uma solução rápida, uma solução de compromisso, mesmo que em detrimento dos princípios e dos desejos mais profundos das populações?

2. Uma negociação envolve uma solução de compromisso. Neste caso, é especialmente importante que as fórmulas encontradas salvaguardem os direitos e a dignidade das partes envolvidas e a sua capacidade de colaborar na manutenção da paz e progresso da região.

3. O direito de um povo à autodeterminação é inquestionável. A comunidade internacional não pode, por razões aparentemente humanitárias ou conjunturais, aceitar que se ultrapasse este princípio. Seria um grave precedente e teria consequências incalculáveis num mundo em convulsão - novas nações que emergem, fronteiras em redefinição - onde a democracia e o respeito pelos direitos humanos constituem referências fundamentais.

4. O quadro jurídico é claro e, para o povo timorense, ocupado por uma potência da região justamente acusada de praticar um

colonialismo retrógrado e um genocídio calculado, retirar-lhe a possibilidade de vir a escolher livremente o seu futuro, é o mesmo que enterrar vivas as suas gerações e favorecer o aparecimento de grupos e acções extremistas. O território não autónomo de Timor-Leste não pode desaparecer da lista mantida pela Comissão de Descolonização, a questão de Timor-Leste não pode ser afastada da agenda das Nações Unidas, enquanto uma consulta popular, livre e justa, não tiver lugar.

5. Mas há urgências. A situação de violação dos direitos humanos no território é extrema. Pode haver muitos passos ou fases intermédios. No entanto, não se devem tomar decisões de fundo, comprometedoras de todo o futuro de um povo, em plena situação de crise ou de depressão conjuntural. A árvore não pode ser tomada pela floresta. Há movimentações a nível internacional e na própria Indonésia. A recusa profunda do povo timorense à ocupação estrangeira é evidente. Manter os princípios e os objectivos finais ao longo do processo negocial, a par de toda a flexibilidade, procura de avanços parcelares possíveis, pressão constante sobre a Indonésia, sensibilização da comunidade internacional e fixação de novos aliados, é indispensável. O que significa manter o quadro de negociações sem pré-condições, no âmbito das Nações Unidas.

6. Tem-se falado, ultimamente, na possibilidade de uma autonomia para Timor, no quadro da República da Indonésia, como forma de se criar uma situação propícia à diminuição das violações de direitos humanos ou de solucionar definitivamente o problema. Nem um nem outro destes objectivos parece possível de atingir através desta fórmula. Por diversas razões.

- A Indonésia tem já duas regiões autónomas, Jacarta e a província do Aceh. Em ambos os casos, a autonomia não passa de uma formalidade, não tendo qualquer alcance prático. Sabe-se como no Aceh têm ocorrido as maiores violências e sistemáticas violações dos direitos humanos, fortalecendo a reivindicação de independência face a um estatuto de autonomia não respeitado. No caso de Timor, a diferença só poderia ser para pior.

- De acordo com figuras de relevo na sociedade timorense que contactaram jornalistas portugueses há poucas semanas, uma autonomia só faz sentido no contexto de uma democracia - seria então um aprofundamento dessa democracia - como acontece com os Açores e a Madeira, por exemplo.

- Quando o Bispo Belo fala em autonomia, ele refere que não é esta a solução que deseja, que os timorenses desejam, mas apenas uma etapa num processo que deve levar a um referendum, fórmula que continua a considerar como a mais correcta.

- Quando o Dr. José Ramos-Horta, representante especial do Conselho Nacional da Resistência Maubere, fala em autonomia, é no contexto de um plano de paz, cujo fim último é também a realização de um referendum e cuja primeira etapa, que deve preceder a fase "de autonomia" implica uma desmilitarização do território, a instalação em permanência de observadores da comunidade internacional e outras medidas visando assegurar o estatuto de território não autónomo e o cumprimento efectivo dos compromissos acordados.

- O governo indonésio não tem honrado, até agora, nenhuma das promessas feitas. O consenso a que se chegou o ano passado no

decurso da Comissão dos Direitos do Homem, subscrito também por Jacarta, não teve nenhum seguimento, antes pelo contrário: a situação dos direitos humanos piorou substancialmente.

7. A consagração de uma autonomia não tem, por isso, viabilidade como solução do conflito nem como realização do direito à autodeterminação. Mas é necessário enfrentar a situação que se vive no território, aliviando a pressão sobre o povo timorense. Nesse sentido, deve exigir-se e pressionar Jacarta no sentido da abertura de Timor-Leste ao exterior, da verificação, por parte da comunidade internacional, da situação de direitos humanos, incluindo o direito de associação, reunião e expressão.

8. Finalmente, e não é certamente o menos importante, qualquer negociação tem de contar com a efectiva participação de todas as partes envolvidas, como refere a resolução 37/30, aprovada pela Assembleia Geral de 1982. Portugal enquanto Potência Administrante, a Indonésia enquanto potência ocupante, os representantes do povo de Timor-Leste, são indispensáveis para a procura e elaboração de uma solução justa e viável. Qualquer negociação realizada apenas entre a antiga e a actual potência ocupante não será justa nem terá viabilidade, o mesmo acontecendo no caso de uma negociação entre timorenses e indonésios, fora do quadro da ONU, como parece preconizar o comandante militar de Timor-Leste e como, eventualmente, a Igreja católica poderia ser tentada a apoiar.

10. Portugal tem uma responsabilidade muito particular no desenhar do presente e do futuro do povo de Timor-Leste. Os timorenses continuam, apesar de muitas desilusões, a esperar um apoio forte, decidido, coerente, do Estado e do povo português. A opinião pública fez sua esta causa, Timor-Leste é hoje, de facto, uma verdadeira questão nacional. Assumi-la com convicção e rigor projectará uma imagem do país com capacidade de ampliar a sua actuação e de capitalizar o respeito internacional.

Lisboa, 9 de Março de 1993

COMISSÃO PARA OS DIREITOS DO POVO MAUBERE

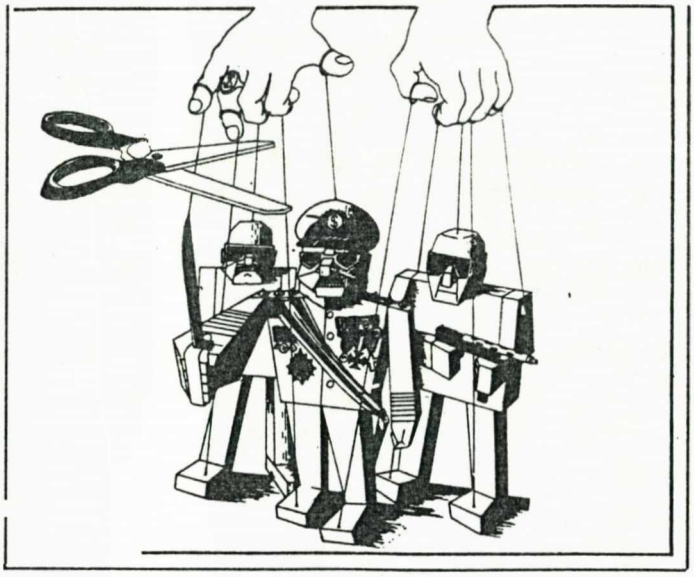
DOSSIER TL7378

Xanana Gusmão ao Movimento dos Não-Alinhados:

"Só um Sul renovado politicamente pode enfrentar as imposições do Norte"

O Comandante Xanana Gusmão dirigiu-se à Cimeira do Movimento dos Não-Alinhados (MNA) para, a partir da experiência da luta de libertação do povo de Timor-Leste, formular um novo quadro para a saída do estado de falência em que se encontra aquele movimento.

A LUTA CONTRA O COLONIALISMO



"(...) Está estabelecido pelas Nações Unidas o ano 2000 para a erradicação do colonialismo da face da Terra. A 8 anos, para que a Humanidade venha a festejar o fim da repressão dos povos, há que denunciar as situações coloniais ainda prevalecentes e há que, sobretudo, condenar os actos de agressão militar e de anexação dos territórios pequenos e fracos, por parte de países do MNA, poderosamente equipados com as armas do Norte. (...).

Para que se conheça melhor a situação em Timor-Leste, passamos a descrever sumariamente certos aspectos da ocupação militar indonésia. Começo por lembrar que, há 17 anos, Jacarta impôs ao Povo Maubere uma guerra de exterminação. São de assinalar as principais ofensivas militares do invasor indonésio:

- o acto de invasão de 7 de Dezembro de 1975, que terminou com o total controlo da população após as sucessivas campanhas de cerco e aniquilamento às bases da resistência popular nas montanhas, desenvolvidas a partir de Setembro de 1977 a Dezembro de 1978;

- a operação de grande envergadura, com a participação obrigatória de toda a população do território, desencadeada em princípios de 1981 até Outubro daquele ano;

- a grande ofensiva, com a aplicação de todo o arsenal bélico, modernizado depois do sucesso das campanhas, de finais de 1983 a finais de 1985;

- outra grande ofensiva, já com a aplicação da táctica de contra-guerrilha territorial, iniciada em 1986 e tendo terminado em finais de 1988,

- a última grande operação, desencadeada em finais de 1990 até meados de 1991;

- a nova ofensiva que já começou em Junho e vai durar todos estes meses de estação seca.

O hediondo massacre de 12 de Novembro do ano findo, representa o outro aspecto da ocupação militar indonésia, que já vitimou mais de 200.000 timorenses.

Passado que foi o nervosismo inicial dos governantes indonésios, os generais indonésios tentaram repor a ordem em Timor-Leste. Com o que se pode classificar de verdadeiro repovoamento das forças da ABRI [forças armadas indonésias] *em todos os sucos e com a colocação, nesses sucos, de equipas de «nanggallas», o ocupante pretende exercer um máximo controlo sobre a população e essencialmente sobre a juventude. (...).*

Situações houve que Jacarta, indubitavelmente, apresentará como prova da estabilidade política em Timor-Leste e que são estas:

- no período em que o barco "Lusitânea Expresso" se aproximava dos limites territoriais de Timor-Leste;

- quando veio o novo núncio para convencer os timorenses que o Vaticano defende a integração;

- quando veio Ali Alatas, que não quis responder às

NESTE NÚMERO:

- Mensagem de Xanana Gusmão ao MNA
- O Clube dos políticos mortos
- Entrevista ao "Coronel John"

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perguntas dos jovens, sob o olhar assassino dos «nanggallas» que lhe davam segurança, e

- quando veio o ministro do interior para dizer que Timor-Leste só tem um único caminho - o da integração forçada pela via da ocupação militar.

Nestas ocasiões, as tropas indonésias estavam em total estado de alerta, tomando posições em pontos estratégicos da cidade e ocupando os itinerários de passagem daquelas altas personalidades, enquanto os agentes da polícia política faziam como que um 2º cordão de segurança. Inverosimilmente, o cemitério de Santa Cruz, o local do massacre de 12 de Novembro, ficava cercado por vários dias.

No período que procedeu as eleições, as forças patrulhavam intensamente os aglomerados populacionais e, no próprio dia, ocupavam posições muito próximas aos principais locais de votação, enquanto os «nanggallas» e os militares destacados nos sucos, (...), exerciam uma apertada vigilância nestes ajuntamentos. (...).

Muitos presos foram deslocados dos principais centros prisionais de Dili, para os próprios aquartelamentos ou postos da ABRI, onde são diariamente espancados, não recebem alimentação e são obrigados a disputar com os cães o resto da comida que os carrascos mandam aos animais. São obrigados a práticas homossexuais dos assassinos, não recebem visitas e seus familiares são ameaçados de morte, caso divulgassem estas condições desumanas de tratamento. (...).

Os jovens são o principal alvo dos ocupantes, que tudo fazem para controlar todas as suas actividades.

No término do período escolar, a polícia militar e «nanggallas» enchiam os estabelecimentos de ensino, provocando e ameaçando os alunos, caso reclamassem que só os filhos dos indonésios passavam de classe.

Nas ocasiões descritas atrás, as forças assassinas desafiavam os jovens, ameaçando-os abertamente de que, se algo acontecesse, a resposta da ABRI seria pior que o 12 de Novembro. (...)."

A LUTA CONTRA O IMPERIALISMO

"Esta cimeira pretende um reforço de posições do Sul face ao Norte.(...).

O confronto Norte-Sul não será uma luta desesperada, mas pede altos juros aos governantes do 3º mundo. O 3º mundo terá que reparar os seus próprios erros se quiser alterar o MNA numa forte e sólida organização de cooperação económica para o desenvolvimento do Sul.

Quando a corrupção continuar política governamental e quando os regimes repressivos continuarem fortes, mantidos pelos fortes do Norte, os governantes do 3º mundo devem reconhecer uma fraqueza do Sul.

Quando interesses nacionais e/ou regionais prevalecem na formulação dos princípios actuantes nas relações com os poderosos do Norte, dividindo o nosso hemisfério, os governantes do 3º mundo devem reconhecer aqui a grande fraqueza do Sul. (...).

Na debilidade política e económica do Sul, avance-se por combater prioritariamente as causas das fraquezas do Sul. O 3º mundo tem que reconhecer, em primeiro lugar, a necessidade de formulação de princípios políticos, pela necessidade de estabelecer as linhas mestras para sanar do nosso hemisfério as calamidades, naturais e as criadas pelos governantes.

Um Sul renovado politicamente, um Sul mais solidário entre si, um Sul que comece a engendrar governantes exemplares e dignos, só um Sul assim pode perspectivar condições de avançar com capacidade no sentido de enfrentar as imposições do Norte.

Enquanto se continuar a definir estratégias de desenvolvimento, pela concentração de um fictício progresso à ocidental em centros capitais urbanos, e deixar-se de atender a um desenvolvimento global e harmonioso do país, em ordem a satisfazer as necessidades básicas da população, não será Suharto, que com milhões e milhões de dólares anuais do Norte, procurará caminho melhor para o Sul.

Falar-se com a linguagem do Sul para o Sul e manter estreitas relações com o Norte, afundando o próprio Povo na dívida que se vai contraindo, é permanecermos na estratégia de: cada um por si e que o Norte nos acuda! (...)."

DIÁLOGO PARA A SOLUÇÃO DOS PROBLEMAS E CONFLITOS

"(...) A Nova Ordem Mundial trouxe promessas de paz e conforto para uma pequena parte da Humanidade. Esta Nova Ordem Mundial deve ser vista sob um novo prisma, por parte

do Sul, mas sempre à luz dos princípios universais.

Não concebemos, evidentemente, um Sul armado para guerrear o Norte. Concebemos um fortalecimento de posições do Sul para dialogar com o Norte.

A ignorância pelo diálogo trouxe as calamidades que hoje assistimos no Sul. Quando conflitos internos criam mais distâncias entre povos, etnias, partidos e poderes políticos, os governantes do 3º mundo devem reconhecer aqui uma causa das fraquezas do Sul.

Quando face aos princípios universais do Direito, as nações do 3º mundo se dividem segundo os interesses dos fortes, sejam eles do Norte, sejam do próprio Sul, os governantes do 3º mundo devem reconhecer uma outra grande fraqueza do Sul.

Se guerras intestinas e de expansionismo no próprio Sul deslocam populações, provocam a fome, a doença e a morte e se se pedem ajudas ao Norte, os governantes do Sul devem reconsiderar que estas atitudes políticas são a base do sofrimento dos seus Povos.

Penso ainda que o Sul deve, desde já, renunciar à corrida ao armamento. O Sul armou-se com os meios de destruição do Norte para capricho dos governantes. (...).

Enquanto no Sul continuarmos belicosos, aguçando os lucros do Norte pela venda do seu armamento, os povos do 3º mundo continuarão endividados e, pior ainda, a serem alimentados pelo Norte.

É a hora de o Sul tomar consciência disto.

Antes que se avance para projectos, seja para incentivar as alianças económicas regionais, já existentes e inoperantes, seja para ordenar outras estruturas económicas, umas e outras buscando sempre o apoio do Banco Mundial e do FMI, para anunciar transformações impossíveis, o MNA devia delinear, em 1º lugar, um Movimento de Mudanças no Sul. Só com uma reconstrução democrática no Sul se pode avançar definitivamente para a reconstrução económica do 3º mundo. (...).

Uma das fragilidades do Sul é a de defender princípios que os fortes não cumprem, a de adoptar resoluções inconsistentes em cimeiras, em reuniões de alto nível, onde cada anfitrião joga apenas o seu próprio prestígio pessoal.

Este é o caso flagrante desta cimeira em Jacarta!

Só um movimento de reformas no Sul pode consolidar o estreitamento da cooperação a nível regional nas diversas áreas do 3º mundo e, do resultado deste processo, se está relançando para uma maior solidariedade entre os povos do 3º mundo. (...).

Enquanto populações do 3º mundo experimentam a angústia da fome e os horrores da guerra e os governantes praticarem a política de repressão pelas armas, compradas ao Norte, não será Suharto que poderá definir conceitos como Paz, Justiça e cooperação entre os Povos!

Suharto não pode falar em arrogância do Norte quando continua arrogantemente a desprezar as resoluções da ONU, relativamente à questão de Timor-Leste, quando arrogantemente se nega ao diálogo com os Timorenses.

Se o Sul aplaude as constantes resoluções do Conselho de Segurança até para revistar o quarto de Saddam Hussein, se o Sul condena as violações dos direitos humanos, denunciadas pelo enviado especial da ONU sobre os DH, no Iraque e aplaude Suharto esquecendo a carnificina de mais de 200 mil timorenses, o MNA, (...), terá que aceitar como lógicas as disparidades no próprio Sul. (...).

Apelamos aos altos dignatários, chefes de Estado e de Governo dos países participantes da Cimeira em Jacarta para que seja tomada em consideração que a situação degradante do Sul só melhorará quando o Movimento se comprometer a respeitar os seus próprios princípios, à luz dos princípios universais.

Se a luta contra o colonialismo do Norte pode aceitar situações coloniais perpetradas por potências regionais do Sul; se o princípio do diálogo para a solução dos problemas não é praticado quando se trata de assegurar os interesses dos fortes do Sul, nada há a esperar da retórica de Jacarta nesta Cimeira.

O fortalecimento dos países do 3º mundo deverá passar pelo fortalecimento dos princípios que todos assumiram.

Expressamos a nossa confiança no sentido de que todos quantos apoiam a causa do nosso Povo venham a pressionar Jacarta a aceitar a proposta de Portugal de diálogo sem pré-condições e com a participação dos Timorenses. (...).

Os governantes de Jacarta têm que pensar que não podem exercer um diálogo sério para salvar o 3º mundo, se continuarem com as armas apontadas à boca do nosso Povo. (...)." □

CARTA A JORNALISTAS PORTUGUESES

Ma'Huno recusa render-se

Uma carta pessoal e um comunicado oficial da resistência timorense, escritos pelo punho do sucessor de Xanana, Ma'Huno, chegaram às mãos dos jornalistas portugueses que estiveram recentemente em Díli.

OSCAR MASCARENHAS

O novo líder da resistência armada maubere, Ma'Huno Bulerek Karathayano (Bukar) – **António João Gomes da Costa** de seu nome de baptismo – conseguiu dar imediata resposta ao anúncio feito pelo governador de Timor-Leste, Abílio Osório Soares, de que obteria a rendição do guerrilheiro em dois meses. Ma-'Huno nega que esteja disposto a render-se, apenas aceita dialogar, para encpontrar uma solução de paz para Timor-Leste.

Por lapso dos canais de informação, à data em que respondeu à declaração do «eloquente Abílio Osório Soares», o secretário da Comissão Directiva da Fretilin (CDF) e do Conselho Nacional da Resistência Maubere (CNRM) julgava estarem apenas quatro jornalistas portugueses em Timor-Leste quando, na realidade, ali se encontravam nove.

Aqui se transcreve a carta de Ma'Huno:

«Caros senhores jornalistas portugueses

Vão, deste ensanguentado solo, onde a língua de Camões se mantém, as nossas mais cordiais saudações.

Estamos certos de que nos dirigimos a pessoas, no caso quatro jornalistas, que falam no mesmo diapasão, ou seja, a defesa da legítima causa timorense. Recordar, aliás, a solidariedade do solo e coração lusos por Timor-Leste é algo que orgulha o humilhado mas heróico Povo Maubere, na batalha pela independência deste solo que embalou Xanana Gusmão.

A presença dos quatro senhores jornalistas portugueses constitui, julgo, uma outra face daquilo que exprimia o *Lusitânia Expresso* no ano passado. Queria dizer, gesto de solidariedade contra a bárbara ocupação dos falcões da ASEAN e as nefastas consequências dela decorrentes. É nessa ordem de ideias que propus avançar, dirigindo-me aos quatro senhores jornalistas, solicitando da vossa parte atenção no sentido de tornar pública a documentação que se junta. Infelizmente, o tempo e as condições que rodeiam os meus trabalhos não permitem abordar demoradamente questões a que a resistência no interior de Timor-Leste se prende. Contudo, cumpre-me informar sobre os desenvolvimentos que se resumem naquilo que o sr. eng.º Mário Carrascalão pôde inferir, cito: «É complexa a exterminação da Resistência.» Pelo que [se] torna nulo o argumento do sr. Abílio Osório no contacto com os senhores portugueses, cito: «Faltam apenas dois meses.» A presença, aliás, de 15 batalhões operacionais no território e o controlo rigorosamente perpetrado pelas mãos dos militares reflectem, tão-só, a evolução do conflito. Osório apenas fazia o papel de cúmplice do genocídio, enquanto defensor acérrimo da tese anexionista e, sobretudo, acólito da linha dura.

Reconhecemos, sim, a nossa fraqueza no palco das operações militares. Mas o apoio popular à causa da independência constitui a tonalidade dominante da situação política neste Timor-Leste ocupado. Prova disso é o facto do posicionamento de Xanana no terreno, ou seja, Díli, o lugar onde se deu a captura. Também é evidência o vasto leque de nomes de timorenses contidos numa lista que veio à tona após a captura de Xanana. Outro facto foi a captura do Mau-Hodu (José da Costa), em Díli, no mês de Janeiro de 1992. Esta situação é a afirmação de que, se a violência do ocupante é a parteira, então o nacionalismo timorense é indomável. Noutros termos, a árvore da Libertação da Pátria continua a estender as suas raízes através das gerações que se sucedem. No outro prato da balança nota-se a solidariedade sem fronteiras com Timor-Leste, pela paz. Recordo Paul Moor, *lobby* Bill Clinton. Outras figuras de renome na Igreja Anglicana, da África do Sul e da Irlanda do Norte, por exemplo, aparecem em cena. Portugal tem, assim, alargada a sua base de apoio à causa timorense. Portanto, a paz é possível, porque é complexa a exterminação da Resistência pela independência.

Por aqui me fico. Estou convicto de que os quatro senhores compreenderão a necessidade de tornar público o nosso pensamento, preciso CNRM, contido na Declaração de 20 de Novembro e no comunicado que se junta.

Em nome dos combatentes da Pátria Maubere, tomo a oportunidade da vossa estadia cá como gesto de solidariedade expresso no caso Xanana, o que nos orgulha. Melhores saudações e respeitosos cumprimentos rematam esta escrita.

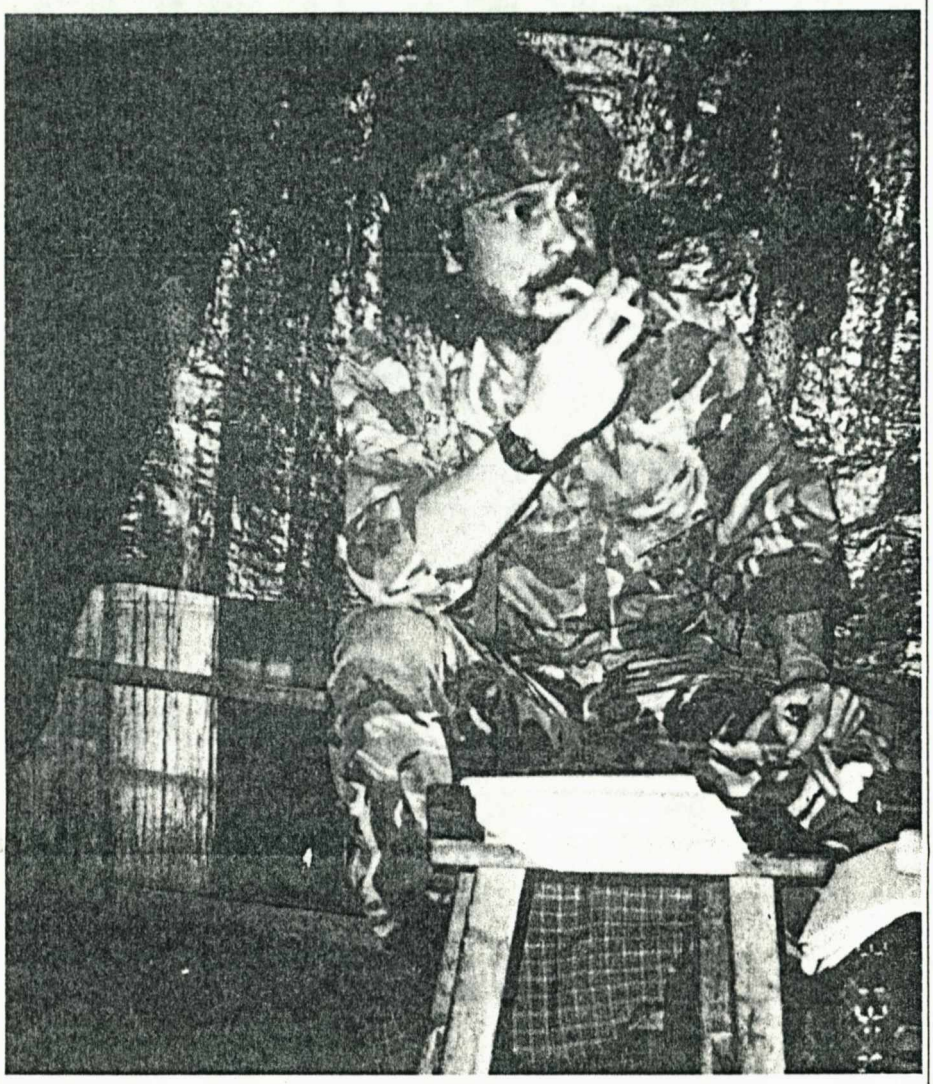
Com a mais alta consideração,

Ma'Huno Bulerek Karathayano (Bukar)»

No comunicado do CNRM e da CDF, Ma'Huno analisa o julgamento de Xanana e a declaração do «eloquente Abílio Osório Soares perante jornalistas estrangeiros, portugueses, por exemplo». Abílio prometera a rendição de Ma'Huno em dois meses e a resposta deste não se fez esperar: «Render, não! Render rejeitamos porque é linguagem da linha dura, militarista, que Abílio Osório corrobora ao manter a presença de tropas ocupantes em Timor-Leste. Diálogo, sim! Isto afirmamos porque batalhamos propugnando a paz para Timor-Leste e para o seu Povo.» O comunicado acrescenta que o referendo para Timor-Leste «deverá resultar do imprescindível envolvimento de representantes timorenses no diálogo sem pré-condições patrocinado pela ONU».

Em relação ao julgamento de Xanana Gusmão, a resistência «exige de Jacarta a soltura imediata e incondicional do prisioneiro de guerra», apela à intervenção de Butros Ghali para a protecção daquele por «meios jurídicos, diplomáticos e morais» e «volta a reafirmar o reconhecimento da pessoa do companheiro Ray Kala Xanana Gusmão como o símbolo da Resistência Timorense, estando congeladas as suas funções de Chefe da Resistência e de Comandante das Falintil».

A Resistência «reafirma o seu total apoio às posições da potência administrante pela causa da paz e do direito à autodeterminação de Heróico Povo Maubere».



Ma'huno Bulerek Karathayano (Bukar)
Secretário - CDF

Direitos reservados

▶ **EM DOCUMENTOS ESCRITOS pelo seu punho, Ma'Huno diz «não» ao anúncio da sua rendição, feito pelo governador de Timor-Leste**

◆ «Render, não! Render é a linguagem da linha dura, militarista, que Abílio Osório corrobora.»

◆ «Diálogo, sim – porque batalhamos propugnando a paz para Timor-Leste!»

◆ «O referendo para Timor-Leste deverá resultar do imprescindível envolvimento de representantes timorenses no diálogo sem pré-condições patrocinado pela ONU.»

TL 0614

Caros senhores jornalistas portugueses

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Estamos certos de que nos dirijimos à pessoas, ao caro os ilustres jornalistas, que falam no mesmo diapasão, ou seja, à defesa da legítima causa timorense. Recordar, aliás, a solidariedade do povo e coragem luso por Timor Leste é algo que orgulha o humilhado, mas heróico Povo Maubere, na batalha pela independência deste solo que embala Xanana Gusmão.

A presença dos ilustres senhores jornalistas portugueses constitui, julgo, uma outra face daquilo que exprime o "Lusitânea Expresso" ano passado. Queria dizer, gesto de solidariedade contra a bárbara ocupação dos falcões da ASEAN e as nefastas consequências dela decorrentes. É nessa ordem de ideias é que me avanço, dirigindo-me aos ilustres senhores jornalistas, solicitando da vossa parte atenção no sentido de tornar pública a documentação que se junta. Infelizmente, o tempo e as condições que cedeiam os meus trabalhos não permitem abordar demoradamente questões a que a Resistência no interior de TL se prende. Contudo, cumpre-me informar sobre os desenvolvimentos que se resume naquilo que o sr. engº Hélio Carrascalão pôde inferir, cito: "é complexa a exterminação da Resistência". Pelo que torna nulo o argumento do sr. Júlio Osório no contacto tido com os senhores portugueses, cito: "faltam apenas dois meses". A presença, aliás, de 15 batalhões operacionais no território e o controlo rigorosamente perpectrado pelas mãos dos militares, reflectem, tão só, a evolução do conflito. Osório, apenas fazia o papel de cúmplice do genocídio, enquanto defensor acérrimo da tese anexionista e, acrescido, acólito da linha dura.

Reconhecemos, sim, a nossa fraqueza no palco das operações militares. Mas, o apoio popular à causa da independência constitui a tonalidade dominante da situação política neste TL ocupado. Prova disso é o facto do posicionamento de Xanana no terreno, ou seja, Dili o lugar onde se deu a captura. Também é evidência o vasto legue de nomes de timorenses, contidos numa lista que veio à tona após a captura de Xanana. Outro facto, tratava-se da captura do Mau-Hodu (José da Costa), em Dili no mês de Janeiro de 1992. Esta situação é a afirmação contundente de que, se a violência do ocupante é a parteira, então, o nacionalismo timorense é indomável. Noutro termos, a árvore da Libertação da Pátria continua a estender as suas raízes através das gerações que se sucedem. No outro prato da balança nota-se a solidariedade sem fronteiras com TL, pela paz. Recordo, Paul Hare "Lobby" Bill Clinton. Outras figuras de renome na Igreja Anglicana, da África do Sul e da Irlanda do Norte por exemplo, aparecem em cena. Portugal tem, assim, alargada a sua base de apoio à causa timorense. Portanto, a paz é possível, porque é complexa a exterminação da Resistência, pela independência.

Por aqui me fico. Estou convicto de que os vossos senhores compreenderão a necessidade de tornar público o nosso pensamento, preciso CNRM, contido na Declaração "12 de Novembro" e no Comunicado que se juntam.

Em nome dos combatentes da Pátria Maubere tomo a oportunidade da vossa estadia cá, como gesto de solidariedade, expresso no caso Xanana, o que nos orgulha. Melhores saudações e respeitosos cumprimentos remetam esta escrita.

Com a mais alta consideração

Mª Hino Bukar Karathayano (Bukar)

Forwarded courtesy of Asia Watch, a component of Human Rights Watch (hrwatchnyc@igc.apc.org). This is the State Department's annual report on human rights practices in Indonesia. This report covers calendar year 1992. The State Department is legally required by Congress to send it this and other country reports every year. The reports are usually made available to the public each February. -- John (apakabar@access.digex.com)

INDONESIA

Indonesia is a very large, populous, developing country whose people come from hundreds of different ethnic, cultural, and linguistic backgrounds. With the largest Muslim population in the world, it is a secular state which advocates religious tolerance and strives to balance the need for stability and development with respect and tolerance for the diversity of its people. The Government requires allegiance to five broad, guiding principles of national life known as "Pancasila": belief in one supreme God, a just and civilized humanity, Indonesian national unity, democracy, and social justice. The Government's authoritarian rule restricts basic human rights.

Under the Constitution, the highest authority of the State is the 1,000-member people's Consultative Assembly (MPR), which meets every 5 years to elect the President and Vice President and set the broad outlines of state policy. In theory, the President is subordinate to the Assembly; in fact, President Soeharto and the armed forces (ABRI) wield predominant political power, with 20 percent of the DPR or Parliament, appointed from the ranks of ABRI. The Parliament is constitutionally responsible for making laws but has not used its power to initiate legislation in the 27 years of Soeharto's Government. It remains essentially passive in its dealings with the executive branch. Quinquennial parliamentary

elections are tightly controlled by the Government and the military. The de facto government party, GOLKAR, won 68 percent of the vote in the most recent elections in June 1992.

The armed forces which include the military services and the police number 445,000. The army constitutes about half of the armed forces and focuses mainly on internal security. Total military expenditures for 1989, the last year for which the U.S. Arms Control and Disarmament Agency conducted a detailed analysis, were $1.51 billion. Given the relatively modest size of the military forces and their budget, there are no indications that efforts will be made to reduce these expenditures in the near future. Under a "dual function" concept, many military officers serve in the civilian bureaucracy at all levels and in Parliament. Public discussion about reducing the military's role in national affairs increased during the year. Security forces continued operations against separatist groups in Aceh, Irian Jaya, and East Timor in 1992. On occasion, police in Jakarta and Medan employed excessive force in subduing suspected criminals.

Indonesia has a largely free market economy characterized by large oil revenues and government attempts to encourage nonoil exports and revenues. The economy continued to expand in 1992, growing approximately 6 percent despite government efforts to contain inflation. Although there were substantial increases in real incomes and in the standard of living of most Indonesians in the past 20 years, the country remains poor, with significant unemployment and wide disparities in wealth. Corruption and influence peddling are endemic and distort growth and economic opportunity.

The most important human rights developments during the year concerned government efforts to cope with the aftermath of army troops' killing of unarmed demonstrators on November 12, 1991, in East Timor. At the recommendation of a military investigating body formed on President Soeharto's orders, unprecedented disciplinary action was taken against 6 senior officers and 10 officers and enlisted men involved in the incident. Thirteen Timorese civilians were convicted in connection with the incident. Most of the latter received extremely harsh sentences. Members of the security forces involved in the shootings were charged only with relatively minor offenses. While the civilians' trials were open and generally conducted in accordance with Indonesian law, they failed to meet all international standards of fairness. Subversion trials in North Sumatra and Aceh also failed to meet international standards.

In addition to extrajudicial killings and unfair trials, other serious human rights problems continued. They include torture and other mistreatment of prisoners and detainees, arbitrary arrest and detention, arbitrary interference with privacy, significant restrictions on freedom of speech and press, assembly and association, and on freedom of movement, and the inability of citizens to change their government. Other problem areas include harassment of human rights monitors, discrimination and violence against women, and restrictions on worker rights.

In other human rights areas, foreign travel requirements were eased. The June 9 elections were free from violence and interference from security forces, and, while minor irregularities occurred, the actual balloting was considered fair. The Government continued its generous policy toward Indochinese refugees and its cooperation with the International Committee of the Red Cross (ICRC) on the repatriation of Irianese who had fled to Papua New Guinea because of separatist violence. But official and informal discrimination against ethnic Chinese persisted. The Government accepted a chairman's statement at the U.N. Human Rights Commission which commits it to respond to recommendations on preventing torture and to allowing greater access by human rights groups to East Timor. However, the Government has as yet made no response on the recommendations, nor has it allowed greater access to East Timor.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

The number of credible reports of politically related civilian deaths has declined substantially since 1991, owing primarily to the fact that military operations in Aceh, Irian Jaya, and East Timor declined. In Aceh in

particular, the egregious abuses of the civilian population eased considerably compared to 1991, as security forces, having eliminated all but a handful of Aceh Merdeka (Free Aceh) armed separatists, turned to civic action projects. The security situation in Irian Jaya was also generally calm, with few, if any, civilian deaths reported due to actions by the military.

In East Timor, tightened security and revised military procedures put into place following the November 12, 1991, shooting incident in Dili appeared to have led to a substantial reduction in civilian deaths attributable to security forces. The exact number and circumstances of the deaths of several Fretilin guerrillas reported killed could not be confirmed. Although the Government did take action against those involved in the November 1991 incident in East Timor, the Government made only minor efforts in 1992 to try and punish appropriately those responsible for killings, torture, and other abuses committed in previous years in Aceh and other areas.

In Baucau, East Timor, two East Timorese were shot on October 5. One was killed outright by ABRI forces. A credible source believes the other, who was taken to a military hospital, was beaten to death while in the hands of ABRI.

The Government continued to deal with the November 12, 1991, shooting of civilians in East Timor. A military "Honorary Council" appointed by President Soeharto in December 1991 to investigate the conduct of security forces in the incident announced its results in February, finding that some members of the security forces had been negligent, had failed to anticipate problems adequately, or had violated military ethics and discipline. As a result of this finding, 4 officers and 6 enlisted members of the security forces were court-martialed in May and June, one on charges of assault and 9 others on charges of exceeding or failing to obey official orders. No charges were brought against ABRI personnel for actually killing civilians during the incident in which 50 to 100 people are thought to have died as a result of military action. All of the soldiers were convicted in sessions open to diplomatic observers and the press and received sentences ranging from 6 to 18 months in prison. Six senior officers were disciplined; three, including the brigadier general who commanded security forces in East Timor at the time of the incident, were discharged. Five other officers were investigated further, one of whom was to be retired early because of his alleged failure to act decisively during the incident.

Little progress was made in locating those demonstrators still missing after the incident. The national investigatory commission refuted earlier military claims that only 19 people died on November 12 by stating in December 1991 that "about 50" were killed. The Commander of the Armed Forces reported to President Soeharto in July that 66 people remained missing. But despite more than 6 months of investigation, the military claimed it had been unable to find any additional bodies beyond the 19 originally accounted for. Although official accounts suggested that some of the 66 were still in hiding, credible sources believed most, if not all, of them were dead.

Police continue to use excessive lethal force in efforts to apprehend suspected criminals. According to press accounts, police in Jakarta in 1991 shot 75 criminal suspects who were reportedly fleeing or resisting arrest, of whom 38 died. In 1992 up to August, 40 suspects had been shot, 20 of whom died. These shootings came against a background of a declining overall crime rate, but an increase in violent crimes.

In Medan, the capital of North Sumatra, where the crime rate was also falling, police announced in 1992 that 182 suspects had been shot in 1991, of whom 2 died. In North Sumatra as a whole 220 suspects were shot. Through early December 1992, 93 suspects had been shot in North Sumatra, many of them 4 and 5 times. Two died of their wounds. Authorities maintained those shot had been fleeing and were given warnings, or were resisting arrest. They also denied they were pursuing a systematic policy aimed at discouraging crime. But human rights groups reported that at least some of those shot claimed they had been caught first, handcuffed, and then shot, sometimes at the police station.

b. Disappearance

There were no reports of politically motivated abductions in 1992. Government efforts to account for those still missing from the November 12, 1991, shooting incident were ineffective (see Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Indonesian Criminal Procedures Code (KUHAP) contains a number of provisions aimed at protecting the accused. Statements from suspects or witnesses, for example, are supposed to be extracted without pressure of any kind, and pretrial procedures give suspects or their families the right to challenge the legality of their arrest or detention. In practice, however, torture and mistreatment of criminal suspects, detainees, and prisoners are common, and the legal protections are violated by the Government.

The U.N. Special Rapporteur for Torture stated in his January report that, based on his November 1991 visit to Indonesia, he had concluded that "torture occurs in Indonesia, in particular in cases which are considered to endanger the security of the state." The Special Rapporteur continued that in areas such as Aceh, Irian Jaya, and East Timor which "are deemed to be unstable...torture is said to be practiced rather routinely." In 1992 Aceh continued to be the area of greatest concern, although various credible observers noted a general improvement in the treatment of detainees and prisoners, perhaps related to the overall reduction in tensions there.

Police often resort to physical abuse, even in minor incidents, and prison conditions in Indonesia tend to be harsh. Officials have publicly condemned police brutality and harsh prison conditions and occasionally instigate disciplinary action, including transfer, dismissal, trial, and sentencing to prison terms. In 1992 several policemen were court-martialed for mistreating or beating prisoners. In one case, as reported in the press, the convicted policeman continued to beat a suspect even though the suspect had already confessed. The suspect died shortly thereafter. This policeman was dismissed from service and sentenced to 4 years' imprisonment. In Aceh, a military tribunal in January sentenced three policemen to between 2 1/2 and 3 months in prison for beating a prisoner. A Medan military court in July sentenced a police sergeant to 14 months in prison for beating a suspect to death.

d. Arbitrary Arrest, Detention, or Exile

KUHAP contains protections against arbitrary arrest and detention and specifies the right of prisoners to notification of family. Warrants must be produced during an arrest except under specified conditions, such as when a suspect is caught in the act of committing a crime. Warrants are issued by police investigators to assist in their investigations or if sufficient evidence exists that a crime has been committed. Defendants have the right to legal counsel of their choice at every phase of an investigation and trial, and also have the right to know in detail the charges against them. Defendants are presumed innocent and may be granted bail. They or their families may also challenge the legality of their arrest and detention in a pretrial hearing and are entitled to sue for compensation if wrongfully detained. KUHAP also contains specific limits on periods of pretrial detention and specifies when the courts must get involved to approve extensions.

In practice, these safeguards are often violated. Bail is rarely granted, especially in political cases. The authorities frequently interfere with access to defense counsel. Extensions of periods of detention are routinely approved. Pretrial proceedings are rarely initiated. In addition, suspects charged under the 1963 Antisubversion Law are subject to special procedures outside of KUHAP that allow, for example, the Attorney General on his own authority to hold a suspect for up to a year before trial. This 1-year period is renewable without limit. Special laws on corruption, economic crimes, and narcotics are similarly exempt from KUHAP's protections. The Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) operates outside KUHAP and has wide discretion to detain and interrogate persons thought to threaten national security.

National estimates on the number of arbitrary arrests or detentions without trial are not available. In Aceh 180 people accused of being members of Aceh Merdeka (Free Aceh) were released in 1992 after varying periods of detention, often incommunicado and without trial. The authorities released a total of 653 detainees in 1991, yielding a total of at least 833 persons detained without trial for various periods in connection with the Aceh insurgency. Many of those released were required to report back to the authorities at regular intervals. At least 50 more Acehnese were believed to be awaiting trial at year's end, many without clear knowledge of the charges against them. (See Section 1.e. for a discussion of those Acehnese who received trials.)

In East Timor military authorities continued the practice of detaining people without charges for short periods and then requiring them to report daily or weekly to police after their release. There were credible reports of scores of people being detained without charges at various times during the year for enforced "vocational training." This occurred during periods of potential unrest, such as the February visit to East Timor of the U.N. Secretary General's Special Envoy, Amos Wako, and the March approach of the Portuguese car ferry, the Lusitania Expresso. Arrests, other temporary detentions, intrusive searches and some beatings also occurred just before the anniversary of the November 12 shootings and in the aftermath of the November 20 arrest of Fretilin leader Jose "Xanana" Gusmao. There have been credible reports that Timorese detainees have been mistreated. In addition, 24 Timorese arrested in the aftermath of the November 12 incident were officially "released" on March 2 when the Attorney General decided only 8 detainees in East Timor would be tried. But the military commander of East Timor continued to hold the 24 in military camps around East Timor for most of the remainder of 1992 for intensive instruction on Indonesian civics. Although they were allowed visits by family members, and 10 were seen by the ICRC, their continued detention in military facilities without charges was a clear violation of KUHAP.

e. Denial of Fair Public Trial

A quadripartite judiciary of general, religious, military, and administrative courts exists below the Supreme Court. The right of appeal from district court to high court to Supreme Court exists in all four systems of justice. The Supreme Court, with a current backlog variously estimated at 13,000 to 17,000 cases, does not consider factual aspects of a case, only the lower courts' application of law. Initial judgments are rarely reversed in the appeals process, although sentences are sometimes increased or reduced. A three-judge panel conducts trials at the district court level, poses questions, hears evidence, decides guilt or innocence, and assesses punishment.

Defendants have the right to confront witnesses. An exception is allowed in cases where distance or expense are deemed excessive for transporting witnesses to court, in which case sworn affidavits may be introduced. In at least one case in 1992, this practice had the effect of preventing cross- examination of prosecution witnesses.

The use in trials of forced confessions and limitations on the presentation of defense evidence are common. Defendants do not have the right to remain silent, and in several cases in 1992 were compelled to testify in their own trials and in related trials running simultaneously. In capital cases and those involving a prison sentence of 15 years or more, a lawyer must be appointed. In cases involving potential sentences of 5 years or more, a lawyer must be appointed if the accused desires an attorney but is indigent. Destitute defendants can obtain private legal help, such as that provided by the Legal Aid Institute (LBH).

The judiciary in Indonesia is not independent. The Supreme Court does not have the right of judicial review over laws passed by Parliament. Although the Supreme Court has since 1985 had the power to review ministerial decrees and regulations, the Court has not yet used this power; Chief Justice Purwoto Gandasubrata, however, took a case dealing with a ministerial decree controlling newspaper publishing permits under advisement in November. While judges receive guidance from the Supreme Court on legal matters, they are civil servants employed by the executive branch. They are subject to considerable pressure from military and other governmental authorities. In addition, corruption permeates the Indonesian legal system. In civil and criminal cases, the payment of bribes can influence prosecution, conviction, and sentencing. The Minister of Justice said in August that while proving judicial corruption was often difficult, 266 judges had been prosecuted since 1980. In September the newly appointed Chief Justice of the Supreme Court, who pledged to combat judicial impropriety, recommended the dismissal of two administrative court justices who allegedly accepted bribes. The final decision, however, rested with the Minister of Justice and the President, who at year's end had not acted on the matter. The Supreme Court engaged in a nationwide effort to improve the quality of district court judges, but public respect for the legal system remained low.

The 1963 Antisubversion Law, which carries a maximum penalty of death, was attacked in several 1992 subversion trials as outmoded, unfair, and excessively harsh. The law makes it a crime to engage in acts that could distort, undermine, or deviate from the state ideology or broad outlines of state policy, or which

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e. Denial of Fair Public Trial

A quadripartite judiciary of general, religious, military, and administrative courts exists below the Supreme Court. The right of appeal from district court to high court to Supreme Court exists in all four systems of justice. The Supreme Court, with a current backlog variously estimated at 13,000 to 17,000 cases, does not consider factual aspects of a case, only the lower courts' application of law. Initial judgments are rarely reversed in the appeals process, although sentences are sometimes increased or reduced. A three-judge panel conducts trials at the district court level, poses questions, hears evidence, decides guilt or innocence, and assesses punishment.

Defendants have the right to confront witnesses. An exception is allowed in cases where distance or expense are deemed excessive for transporting witnesses to court, in which case sworn affidavits may be introduced. In at least one case in 1992, this practice had the effect of preventing cross- examination of prosecution witnesses.

The use in trials of forced confessions and limitations on the presentation of defense evidence are common. Defendants do not have the right to remain silent, and in several cases in 1992 were compelled to testify in their own trials and in related trials running simultaneously. In capital cases and those involving a prison sentence of 15 years or more, a lawyer must be appointed. In cases involving potential sentences of 5 years or more, a lawyer must be appointed if the accused desires an attorney but is indigent. Destitute defendants can obtain private legal help, such as that provided by the Legal Aid Institute (LBH).

The judiciary in Indonesia is not independent. The Supreme Court does not have the right of judicial review over laws passed by Parliament. Although the Supreme Court has since 1985 had the power to review ministerial decrees and regulations, the Court has not yet used this power; Chief Justice Purwoto Gandasubrata, however, took a case dealing with a ministerial decree controlling newspaper publishing permits under advisement in November. While judges receive guidance from the Supreme Court on legal matters, they are civil servants employed by the executive branch. They are subject to considerable pressure from military and other governmental authorities. In addition, corruption permeates the Indonesian legal system. In civil and criminal cases, the payment of bribes can influence prosecution, conviction, and sentencing. The Minister of Justice said in August that while proving judicial corruption was often difficult, 266 judges had been prosecuted since 1980. In September the newly appointed Chief Justice of the Supreme Court, who pledged to combat judicial impropriety, recommended the dismissal of two administrative court justices who allegedly accepted bribes. The final decision, however, rested with the Minister of Justice and the President, who at year's end had not acted on the matter. The Supreme Court engaged in a nationwide effort to improve the quality of district court judges, but public respect for the legal system remained low.

The 1963 Antisubversion Law, which carries a maximum penalty of death, was attacked in several 1992 subversion trials as outmoded, unfair, and excessively harsh. The law makes it a crime to engage in acts that could distort, undermine, or deviate from the state ideology or broad outlines of state policy, or which

could disseminate feelings of hostility or arouse hostility, disturbances, or anxiety among the population. The U.N. Special Rapporteur for Torture recommended in his January report that the law be repealed. He noted that the law's definitions are "very broad and loose," and that no requirement exists to prove that allegedly subversive acts actually endangered the security of the State, only that they could have. The vagueness of the law makes a successful defense virtually impossible; only two persons have ever been acquitted of subversion charges. Other statutes that are part of the Indonesian Criminal Code and therefore subject to KUHAP protections make it a felony to insult or sow hatred against the Government or to seek the separation of one area from the rest of the country. Defense attorneys also attacked these laws as holdovers from the Dutch colonial period and as unwarranted restraints on free speech.

More than two dozen subversion trials were conducted in 1992. As in 1991, the majority of these cases were in Sumatra where as of August 19 people had been tried and convicted of subversion in connection with the Aceh Merdeka insurgency, including four members of the armed forces. According to credible observers, KUHAP provisions were widely violated in the conduct of these trials, with lack of access to attorneys and pretrial mistreatment of the accused the most frequently cited problems.

Four Timorese were convicted of subversion in 1992 in trials in Dili and Jakarta. The four were part of a group of 13 Timorese charged in connection with either a November 12, 1991, demonstration in Dili that preceded the shooting incident, or a November 19, 1991, demonstration in Jakarta that protested the shootings. The other 9 were tried on felony hate-sowing or sedition charges. These trials were attended by international observers, including representatives of the International Commission of Jurists, the Indonesian and foreign press, and the U.S. and other embassies. In general, the trials were substantially fairer than the Aceh proceedings. But in the Dili trials in particular, they did not meet international standards for fair trial. For example, access to legal counsel was obstructed to the extent that the defendants in several cases met their chosen attorneys only on the day their trials began. Even then, the Dili District Court barred attorneys in the subversion cases from representing the accused on technical grounds until the Supreme Court intervened. All 13 accused Timorese were convicted. One received a 6-month sentence and was released immediately. Seven received sentences of 10 years or more, and one received a life sentence, which is unusually harsh even in a subversion case. There is reason to believe that these harsh sentences were intended specifically to deter future such anti-integration activity. Security personnel responsible for the shootings were charged with relatively minor offenses.

The Government does not make available statistics on the number of people currently serving subversion sentences or sentences under the felony "hate-sowing" or sedition laws. But informed sources indicated some 300 persons were serving sentences for subversion in 1992, including members of the banned Communist Party of Indonesia (PKI), Muslim extremists, and those convicted of subversion in Irian Jaya, Aceh, and East Timor. Scores more were believed to be serving sentences under the hate-sowing or sedition laws. At least some of these persons advocated or employed violence.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Judicial warrants for searches are required except for cases involving suspected subversion, economic crimes, and corruption. However, forced or surreptitious entry by security agencies occurs regularly. Security agencies intimidate by conducting surveillance of persons and residences, and they are believed to monitor selectively local and international telephone calls without legal restraint. Government security officials monitor the movements and activities of former members of the PKI and its front organizations, especially persons the Government believes were involved in the abortive 1965 Communist-backed coup. The Government stated in late 1990 that this latter group then totaled 1,410,333 people. These persons and their relatives sometimes are subject to surveillance, required check-ins, and arbitrary actions by officials, including removal from government employment and threats of removal from such employment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Significant restrictions on freedom of speech and press exist. Government agencies exercise broad discretionary authority in applying laws concerning the rights of expression, and effective judicial review is lacking. Public statements or publications which criticize the Government or are perceived as critical of

Pancasila, top leaders, their families, or particular religious and ethnic groups are often harshly punished. Two students were arrested prior to the June 9 elections for criticizing the election process and advocating the casting of blank ballots or staying away from the polls. They were released in late June, although the charges were not dropped. Five Timorese were convicted of sowing hatred against the Government following a November 19, 1991, peaceful demonstration in Jakarta (two of these were also convicted of subversion.) (See Section 1.e.).

The leader of Indonesia's largest Muslim organization was prevented by the authorities from speaking in Surabaya in April.

The Government operates the nationwide television network. Private television companies broadcasting in Jakarta and Surabaya expanded to other areas, and a private educational channel began operating nationally. Some 550 private radio broadcasting companies exist in Indonesia in addition to the Government's national radio network. Private television and radio stations, which have considerable programming latitude, are nonetheless subject to official scrutiny and required to use government-provided news programs. Private radio stations frequently supplement such news programs with their own reports. Foreign television and radio broadcasts are readily accessible to those who can afford the technology.

The print media, including the nation's 273 daily newspapers, are largely privately owned. Officials state that the press is "free" but also "responsible." It is expected to support national development and stability, be educational, and uphold professional standards. The Government limits the number of newspaper licenses, the amount of advertising, and the number of pages, and exercises strong control over the press through its control of publishing permits. Journalists have protested in the past that the Department of Information has revoked these permits without giving the offending publications an adequate chance to defend themselves. The Government occasionally censors domestic and foreign publications and, in a practice known locally as "telephone culture," telephones editors to suppress stories. In May a provincial official in South Sumatra ordered the removal of an article dealing with the June election from the editing tables of the daily newspaper, the Sriwijaya Post. His actions were criticized by Home Affairs Minister Rudini, who said that press censorship should be reduced to a minimum. Although the risk of official sanctions and informal government instructions generally lead editors to exercise considerable self-censorship in disseminating views of government critics, the domestic print media continued to press the limits of official tolerance in coverage of election issues, East Timor, and social problems. Cartoons often pointedly critical of top government officials appeared routinely in several newspapers.

The Government closely regulates access to Indonesia, and particularly to certain areas of Indonesia, by visiting and resident foreign correspondents and occasionally reminds the latter of its prerogative to deny requests for visa extensions. Although an American reporter was ordered to leave East Timor in February, other journalists were allowed to visit in May and November.

The importation of foreign publications and video tapes, which must be reviewed by government censors, requires a permit. Importers avoid foreign materials critical of the Government or dealing with topics considered sensitive, such as human rights. Foreign publications, from Time magazine to the Asian Wall Street Journal, are normally available although several issues were delayed or embargoed in 1992 when they carried sensitive stories or, in one case, an advertisement some found offensive to the President. In each instance the decision to halt distribution was attributed to the private distributor, although government pressure is assumed to have triggered that decision.

While academic freedom is provided for in law, constraints exist on the activities of scholars. They sometimes refrain from producing materials which they believe might provoke government displeasure. Publishers are often unwilling to accept manuscripts dealing with controversial issues, and those that do sometimes find works banned long after they have been published. Two academic works were among the four books banned by the Attorney General in 1992. Another work banned was the report by the Legal Aid Institute (LBH) on violations of KUHAP during the 1991 Aceh subversion trials. The Attorney General said he banned the report because it could mislead the public and damage national unity.

b. Freedom of Peaceful Assembly and Association

Freedom of assembly and association are recognized in Article 28 of the Constitution. Nonetheless, significant controls are placed on citizens who attempt to exercise this freedom. All organizations must have government permission to hold regional and national meetings. Local jurisdictions often require prior approval for smaller gatherings as well. While obtaining such approval is fairly automatic, the authorities occasionally withhold permission. Two gatherings of the discussion group Democratic Forum were ordered ended by police in February and April because they lacked a police permit, even though organizers argued they were holding informal discussions rather than a formal meeting. A May gathering of the All Indonesia Association of Muslim Intellectuals to discuss human rights was also ended prematurely because it lacked the appropriate permit. Regulations were issued in connection with the June elections that banned a wide variety of mass meetings around election day. Student gatherings have often been the target of disapprovals, and ostensible political activity at universities remained forbidden. The Government also banned political campaigning from university campuses in connection with the 1992 parliamentary elections.

The 1985 Social Organizations Law (ORMAS) requires all organizations, including recognized religions and associations, to adhere to Pancasila. This provision, which limits political activity, is widely understood as being designed to inhibit the activities of groups which seek to make Indonesia an Islamic state. The law empowers the Government to disband any organization it believes to be acting against Pancasila and requires prior government approval for any organization's acceptance of funds from foreign donors.

c. Freedom of Religion

The Constitution provides for religious freedom and belief in one supreme God. The Government recognizes Islam, Christianity, Buddhism, and Hinduism, and permits practice of the mystical, traditional beliefs of "Aliran Kepercayaan." Although the population is overwhelmingly Muslim, the practice and teachings of the other recognized faiths are respected. Various restrictions on certain types of religious activity exist. According to official statistics, nearly 400 "misleading religious cults" are banned, including Jehovah's Witnesses and Baha'i. Because the first tenet of Pancasila is belief in a supreme being, atheism is forbidden. The legal requirement to adhere to Pancasila extends to all religious and secular organizations. The Government strongly opposes Muslim groups which advocate establishing an Islamic state or acknowledging only Islamic law, both of which are outlawed.

There is no legal bar to conversion between faiths, and conversions occur. However, proselytizing between the recognized religions or in areas heavily dominated by one recognized religion or another is considered potentially disruptive and is discouraged. Foreign missionary activities are relatively unimpeded. In recent years, some foreign missionaries have had difficulty renewing visas or residence permits--a few on unspecified "security grounds." Laws and decrees from the 1970's do not allow foreign missionaries to spend more than 10 consecutive years in Indonesia, with some extensions granted in remote areas like Irian Jaya. Enforcement of this policy does not discriminate by sect or nationality. Foreign missionary work is subject to the funding stipulations of the ORMAS Law (see Section 2.b.).

Indonesians practicing the recognized religions maintain active links with coreligionists inside and outside Indonesia and travel abroad for religious gatherings.

The Government organizes the annual hajj pilgrimage, and more than 100,000 Indonesians made it in 1992.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Restrictions on freedom of movement exist. The Government maintains an unpublished blacklist of Indonesians who are forbidden to leave the country, including various prominent human rights monitors, and foreigners who are forbidden to enter, especially certain foreign journalists. (The Government announced in early January 1993 that the number of persons currently affected by the travel ban was 8,897.) Reportedly 14 journalists were removed from the list in July, but their names were not made public. The DPR passed new legislation in 1992 affecting the travel ban which elevated it to the status of law and required the Government to notify people when they have been added to the list. Previously, people discovered their status only when they tried to enter or leave. As a result of the new legislation,

the Government also eliminated the requirement of obtaining an exit permit. But the new legislation added a provision that will allow the Government to ban Indonesian citizens whose return would pose problems for national security. This provision was opposed by human rights groups and certain legislators but strongly supported by the DPR's military faction.

Restrictions exist on movement by Indonesian and foreign citizens to and within parts of Indonesia. Permits to seek work in a new location are required in certain areas, primarily to control further population movement to crowded cities. Special permits are required to visit certain parts of Irian Jaya. Security checks affecting transportation and travel to and within East Timor occurred sporadically in 1992, and curfews in connection with military operations were occasionally imposed. Former political detainees, including those associated with the abortive 1965 coup, must notify authorities of their movements and may not change their place of residence without official permission.

Indonesia continued its generous attitude regarding Indochinese asylum seekers in 1992. It has granted first asylum to over 123,000 Indochinese asylum seekers since 1975 and continued to operate a refugee facility on Galang Island. Cambodian asylum seekers, whom the Government considers illegal immigrants, have been allowed to remain in Indonesia pending repatriation. Indonesia also continued its cooperation with the U.N. High Commissioner for Refugees (UNHCR) and the ICRC on the return of residents of Irian Jaya who had fled to Papua New Guinea during separatist violence in the eastern portion of the province. A new wave of several hundred Irianese fled to Papua New Guinea in 1992 following border clashes between OPM insurgents and security forces, bringing the total of Irianese in Papua New Guinea's East Awin refugee camp to approximately 3,700. More than 100 Acehnese who fled to Malaysia during the height of separatist violence in 1990-1991 returned to Aceh. Others continued to seek asylum in Malaysia, including a group of 43 who entered the UNHCR compound in Kuala Lumpur in June claiming their lives would be threatened if they returned to Indonesia.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Whatever their theoretical rights under the Constitution, citizens do not in fact have the ability to change the Government through democratic means. President Soeharto and a small group of active-duty and retired military officers and civilian officials exercise governmental authority. The military, under a "dual function" doctrine, is assigned a role in both security and sociopolitical affairs. Members of the military are allotted 20 percent of the seats in national, provincial, and district parliaments, and occupy numerous key positions in the administration. The other 80 percent of national and local parliamentary seats are filled through elections held every 5 years.

All adult citizens are eligible to vote, except active-duty members of the armed forces, convicted criminals serving prison sentences, and some 36,000 former PKI members. Voters may choose by secret ballot between the three government-approved political organizations, which field candidate lists in each electoral district. Those lists must be screened by BAKORSTANAS (see Section 1.d.), which determines whether candidates were involved in the abortive 1965 Communist coup or pose other broadly defined security risks. Critics charge these screenings are unconstitutional, since there is no way to appeal the results, and note that they can be used to eliminate government critics from Parliament. Strict rules establish the length of the political campaign, access to electronic media, schedules for public appearances, and the political symbols that can be used.

GOLKAR, a government-sponsored organization of diverse functional groups, won 68 percent of the seats in the June 9 elections. Two small political parties, the United Development Party and the Indonesian Democratic Party (PDI), split the remaining vote. By law all three political organizations must embrace Pancasila. They are not considered opposition parties and seldom espouse policies much different from those of the Government, although the PDI raised several controversial issues during the 1992 campaign. The leaders of all these organizations are approved, if not chosen, by the Government, and their activities are closely scrutinized and often guided by government authorities. GOLKAR maintains close institutional links with the armed forces and KORPRI, the nonunion association to which all civil servants automatically belong. Civil servants may join any of the political parties with official permission, but most are members of GOLKAR. Former members of the PKI and some other banned parties may not run for office or be active politically. Although numerous irregularities were reported

during the June polling, most observers believed they were not widespread or systematic. The Government initiated criminal proceedings against some of those accused of campaign violations.

The 500 members of the national DPR--100 appointed military and 400 elected--consider bills presented to them by government departments and agencies but do not draft laws on their own, although they have the constitutional right to do so. The DPR makes technical and occasionally substantive alterations to bills it reviews. It remains clearly subordinate to the executive branch. The People's Consultative Assembly (MPR), made up of the 500 DPR members and 500 other members appointed by the Government and political organizations, meets every 5 years to devise the broad outlines of state policy and to elect the President and Vice President. A new MPR, which began meeting on October 1, will hold Presidential elections in March 1993. Under the Constitution, the President is subordinate and responsible to the MPR. In practice, President Soeharto and the military dominate the political system, and the MPR's selection of President Soeharto to repeated terms has been pro forma.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government generally ignores calls by domestic human rights groups and activists for investigations of alleged human rights incidents, with the notable exception of the various investigations ordered by President Soeharto into the November 12, 1991, shooting incident in East Timor (see Section 1.a.). While various domestic organizations and persons interested in human rights operate energetically, the Government discourages public human rights activities. Some human rights monitors face government harassment such as frequent visits by police or agents from military intelligence, interrogations at police stations, cancellations of private meetings (see Section 2.b.), or restrictions on foreign travel (see Section 2.d.). The Government considers outside investigations of alleged human rights violations to be interference in its internal affairs. It expanded on this concept in 1992, emphasizing its belief that linking foreign assistance to human rights observance was unacceptable. This belief was part of its March decision to reject Dutch foreign assistance, a decision which also led to the cutoff of funds from Dutch nongovernmental organizations (NGO's) that receive Dutch government money. Several Indonesian human rights organizations received funding from the affected Dutch NGO's. The Government continued to ban the entry of high-profile human rights groups such as Amnesty International and refused in April a request by two U.S. Senators to visit East Timor.

Nonetheless, the ICRC continued to operate in East Timor, Irian Java, and Aceh, and to visit prisoners convicted of participation in the abortive, Communist-backed coup in 1965 as well as convicted Muslim extremists. A special envoy of the U.N. Secretary General, Amos Wako, was allowed to visit Jakarta and East Timor in February. Indonesia also accepted a chairman's statement on East Timor during the 1992 session of the U.N. Human Rights Commission. That statement noted serious concerns with the human rights situation in East Timor, strongly deplored the November 12, 1991, shooting incident, and welcomed government actions to cope with it. It also called on the Government to facilitate access to East Timor by humanitarian and human rights organizations. Finally, it looked forward to a report from the Government on progress in implementing recommendations from the U.N. Special Rapporteur on Torture based on his 1991 trip to Indonesia. (See Section 1.c.) Thus far the Government has neither responded to the recommendations nor eased access to East Timor. In 1992 the ICRC also experienced increasing difficulty gaining access to East Timorese prisoners under conditions defined in its operating agreement with the Government. The ICRC highlighted these difficulties after the arrest November 20 of Fretilin leader Jose "Xanana" Gusmao, to whom the ICRC finally gained access on December 7. The ICRC continued to press for access to other Timorese arrested since November 1.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

Indonesians exhibit considerable tolerance for ethnic, racial, and major religious differences, with the important exception of official and informal discrimination against ethnic Chinese. Since 1959 noncitizen ethnic Chinese have been denied the right to run businesses in rural Indonesia. Regulations prohibit the operation of all-Chinese schools for ethnic Chinese citizens, formation of exclusively Chinese cultural groups or trade associations, and public display of Chinese characters. Chinese-language publications, with the exception of one officially sanctioned daily newspaper, may neither be imported nor produced domestically. Jakarta city officials burned thousands of cassettes, compact discs, and books in Mandarin

Chinese in March. Private instruction in Chinese is discouraged but takes place to a limited extent. No laws prohibit speaking Chinese, but the Government lays heavy stress on the learning and use of the national language, Bahasa Indonesia.

Many people of Chinese ancestry have nonetheless been successful in business and the professions, and the enforcement of restrictions is often haphazard. Some ethnic Chinese have enjoyed particular government favor. Social and religious groups exist which are, in effect, all-Chinese and not proscribed.

Under the law, and as President Soeharto and other officials periodically affirm, women are equal to and have the same rights, obligations, and opportunities as men. Some Indonesian women enjoy a high degree of economic and social freedom and occupy important mid-level positions in the civil service, educational institutions, labor organizations, the military, the professions, and private business. Although women constitute one-quarter of the civil service, they occupy only a small fraction of the service's top posts. Women make up about 40 percent of the overall work force, with the majority in the rural sector. Despite legal guarantees of equal treatment, women seldom receive equal pay for equal work and disproportionately experience illiteracy, poor health, and nutrition. Traditional attitudes which limit women's aspirations, activities, and status undercut state policy in some areas. Several voluntary, private groups work actively to advance women's legal, economic, social, and political rights and claim some success in gaining official cognizance of their concerns.

In 1992 there were increasing reports of violence against women, including rape and other violence against female domestic servants. Human rights and women's rights groups believed that the police, prosecutors, and courts were slow to react in many cases, and many women who were the victims of sexual crimes were reluctant to report them to police. This lack of confidence in the willingness or ability of authorities to take effective action to combat crime is not limited to violence against women but is part of the overall low esteem in which the criminal justice system is held. The Government has acknowledged the problem of domestic violence in Indonesian society, which some say has been aggravated by recent social changes brought about by rapid urbanization. The Government provides some counseling, and several private organizations exist to assist women. Nonetheless, most observers agree the problem of violence against women remains poorly documented.

Section 6 Worker Rights

a. The Right of Association

Private sector workers, including those in export processing zones, are free to form or join unions without prior authorization. However, in order to bargain on behalf of employees or to represent workers in the Department of Manpower's labor courts, a union must register as a mass organization with the Department of Home Affairs under the ORMAS Law (see Section 2.b.) and meet the requirements for recognition by the Department of Manpower: union offices in at least 20 of the country's 27 provinces, branch offices in at least 100 districts, and 1,000 plant level units.

While there are no formal constraints on the establishment of unions, the recognition requirements are a high legal barrier to recognition and the right to engage in collective bargaining. In de facto terms, there is a single union system, and it is the Government's stated policy to seek to improve the effectiveness of the one recognized union rather than ease the process for the formation of alternative organizations. The one union recognized by the Department of Manpower is the All Indonesia Workers Union (Serikat Pekerja Seluruh Indonesia, SPSI). Two other labor groups, Setia Kawan (Solidarity), also known as Serikat Buruh Merdeka (SMB, Free Trade Union), and Serikat Buruh Sejahtera Indonesia (SBSI, Indonesian Workers Welfare Union), are attempting to satisfy the Department of Manpower requirements. In existence for 2 years, Setia Kawan is essentially moribund, while the SBSI, created in 1992, continues to attempt to form the necessary branches prior to applying for recognition.

The SPSI has 9,071 units out of roughly 26,000 organizable work sites. It has a membership of about 1 million dues-paying members, about 1.4 percent of the total work force. However, if agricultural workers and others in categories such as self-employed and family workers who are not normally union members are excluded, the percentage of union members rises to approximately 6 percent.

Minister of Manpower Decision 1109/men/1986, which defines the procedures for establishing an SPSI factory unit, enjoins workers to consult with the employer during the process of setting up an SPSI branch. In practice this often means obtaining the employer's consent for the establishment of a unit. There are numerous reports that employers will agree to the organization of SPSI units only if they are allowed to select the units' officials. Employers justify this action under the terms of Ministerial Decision 1109 which also specifies the requirements for union officials which include "high educational background" and possession of "certain qualities: reliable, highly disciplined...." Employers argue that they are in the best position to know which employees possess these characteristics.

Civil servants are not permitted to join unions and must belong to KORPRI, a nonunion association whose Central Development Council is chaired by the Minister of Home Affairs. Teachers must belong to the Teachers' Association (PGRI). While technically classed as a union (its status was changed from an association similar to KORPRI in April 1990), PGRI has continued to function more as a welfare organization and does not appear to have engaged in trade union activities. State enterprise employees, defined to include those enterprises in which the state has a 5-percent holding or greater, usually are required to join KORPRI, but there are some state enterprises which have SPSI units.

Unions may draw up their own constitutions and rules and elect their representatives. However, the Government has a great deal of influence over the SPSI, the head of the SPSI is a senior member of GOLKAR, two senior SPSI officials are Members of Parliament representing GOLKAR, and the Minister of Manpower is a member of the SPSI's Consultative Council. According to credible reports, the Government interferes in the selection of SPSI officers, especially the placing of retired military officers in mid-level SPSI positions.

Under the Criminal Code, police approval is needed for all meetings outside offices or normal work sites. This provision also applies to union meetings. Permission is routinely given to the SPSI. In October police and the military halted an SBSI meeting, for which a permit had not been requested, and briefly detained its organizers for questioning. A union may be dissolved if the Government believes it is acting against Pancasila, but there are no laws or regulations specifying the procedures for union dissolution. There have been no actual cases of dissolution.

The SPSI maintains international contacts, but is not affiliated with any international trade union organizations except the Association of Southeast Asian Nations (ASEAN) Trade Union Council. Some elements of the SPSI, such as the seafarers, maintain links with international trade union secretariats. The SPSI has an application for membership with the International Confederation of Free Trade Unions pending. While Pancasila principles call for labor-management differences to be settled by consensus, all organized workers, with the exception of civil servants, have the right to strike. In practice, state enterprise employees and teachers rarely exercise this right. Before a strike can occur in the private sector, the law requires intensive mediation by the Department of Manpower and prior notice of the intent to strike. However, no approval is required.

In practice, dispute settlement procedures are not followed fully, and formal notice of the intent to strike is rarely given. The Department of Manpower procedures are time consuming and decisions are handed down usually only after a prolonged period has elapsed. These processes have little credibility with workers and are mostly ignored. Strikes, therefore, tend to be sudden, the result of longstanding grievances or recognition that legally mandated benefits or rights are not being given. While strike leaders are not arrested for illegal strikes, they often lose their jobs. The number of strikes has continued to increase over the last several years, some of them in support of fired union officials but most of them over failure of companies to pay legally mandated minimum wages. In 1991 there were 112 "illegal" strikes officially recorded by the Department of Manpower, although the actual number most likely was larger. When the figures for 1992 are tallied, it is probable they will show another increase.

b. The Right to Organize and Bargain Collectively

Collective bargaining is provided for by law, but only recognized trade unions may engage in it. The Department of Manpower promotes collective bargaining as an instrument of industrial relations in the context of the national ideology of Pancasila. The majority of the collective bargaining agreements between the SPSI and employers are negotiated bilaterally.

Once notified that 25 employees have joined a registered union, an employer is obligated to bargain with them. As a transitional stage to encourage collective bargaining, regulations require that every company with 25 or more employees issue company regulations defining the terms and conditions of employment. Before a company can register or renew its company regulations it must demonstrate that it consulted with the union or in its absence a committee consisting of employer and employee representatives.

Only about half of the SPSI units have collective bargaining agreements. The degree to which these agreements are freely negotiated between unions and management without government interference varies. By regulation negotiations are to be concluded within 30 days. If not, the matter is submitted to the Department of Manpower for mediation and conciliation or arbitration. Most negotiations are concluded within the 30-day period. Agreements are for 2 years and can be extended for 1 more year.

Regulations expressly forbid employers from discriminating or harassing employees because of union membership. There are credible reports from union officials, however, of employer retribution against union organizers, and the SPSI claims that some employers discriminate against its members and workers who desire to form SPSI units.

Charges of antiunion discrimination are adjudicated by administrative tribunals. However, many union members believe the tribunals generally side with employers. Because of this perceived partiality, many workers reject or avoid the process and present their grievances directly to Parliament and other agencies. Administrative decisions in favor of fired workers tend to be monetary awards; workers are rarely reinstated.

Workers can organize without restriction in a private enterprise, even if it is designated vital by the Government. If the State has a partial interest, the enterprise is considered to be in the public service domain, but this does not always legally limit organizing. There are a number of government/private joint ventures which have SPSI units and which bargain collectively.

The military or police have been involved in a number of labor disputes. Workers have charged that members of the security forces have attempted to intimidate union organizers and have beaten strike leaders. Police and military in a number of instances have been present in significant numbers during strikes, even when there has been no destruction of property or violence. Military officials occasionally have been reported present during negotiations between workers and management. Their presence has been described as intimidating by plant level union officials.

Labor law applies equally in export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced labor is strictly forbidden and enforcement is generally adequate. There were, however, credible reports in 1990 of forced labor by logging companies among the Asmat tribe in Irian Jaya. There have been documented reports of girls being sold as domestic servants or to brothels, and of men being sold as agricultural workers. The Government has thus far failed to follow through on its promise of an investigation into these reports.

d. Minimum Age for Employment of Children

Child labor continues to be a serious problem in industrial areas. The Government acknowledges that there is a class of children who must work for socioeconomic reasons, and in 1987 the Minister of Manpower issued Regulation PER-OL/Men/1987 "On Protection of Children Forced to Work" to regulate this situation. This regulation legalizes the employment of children under the age of 14 who must work to contribute to the income of their families. It requires parental consent, prohibits dangerous or difficult work, limits hours to 4 hours daily, and requires employers to report the number of children working under its provisions. It does not set a minimum age for children in this category, effectively superseding the government Ordinance of December 17, 1925, on Measures Limiting Child Labour and Nightwork of Women, which is still the current law governing child labor. It sets a a minimum age of 12 for employment. However, the 1987 regulation is not enforced; no employers have been taken to court for

violating it, and no reports are collected from establishments employing children. Act No. 1 of 1951 was intended to bring into force certain labor measures, including provisions on child labor which would replace those of the 1925 legislation. However, implementing regulations for the child labor provisions have never been issued. Thus the child labor provisions in the 1951 Act have no validity.

e. Acceptable Conditions of Work

In the absence of a national minimum wage, area wage councils working under the supervision of the National Wage Council establish minimum wages for regions. This is a quadripartite body consisting of representatives from labor, management, government, and universities. It also establishes a basic-needs figure for each province--a monetary amount considered sufficient to enable a single worker or family to meet the basic needs of nutrition, clothing, and shelter. The minimum wage rates constantly lag behind the basic needs figures and fall short of providing a decent standard of living. Labor law and ministerial regulations provide workers with a variety of other benefits, such as social security, and workers in more modern facilities often receive health benefits and free meals.

The law establishes 7-hour workdays and 40-hour workweeks, with one 30-minute rest period for each 4 hours of work. The daily overtime rate is 1 1/2 times the normal hourly rate for the first hour, and twice the hourly rate for additional overtime. Regulations allow employers to deviate from the normal work hours upon request to the Minister of Manpower with the agreement of the employee.

Observance of minimum wage and other laws regulating benefits and labor standards varies from sector to sector and region to region. Employer violations of legal requirements are fairly common and often result in strikes and employee protests. The Minister of Manpower has publicly urged employers to comply with the law and sternly warned one group of foreign investors in the sports shoe industry about compliance with minimum wage regulations and their culturally insensitive industrial relations practices. However, in general, government enforcement and supervision of labor standards is weak.

Both law and regulations provide for minimum standards of industrial health and safety. In the largely Western-operated oil sector, safety and health programs function reasonably well. In the country's 100,000 larger, registered companies in the nonoil sector, the quality of occupational health and safety programs varies greatly. The enforcement of health and safety standards is severely hampered by the limited number of qualified Department of Manpower inspectors as well as the lack of employee appreciation for sound health and safety practices. Allegations of corruption on the part of inspectors are not uncommon. Workers are obligated to report hazardous working conditions, and while employers are prevented by law from retaliating against those who do, such retaliation does occur, since the law is not effectively enforced.

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East Timor's Catholic Priest again denounces abuses

Bishop Carlos Ximenes Belo, head of the Catholic church of East Timor, told Radio Australia on 28 February 1993 of his anger over public ceremonies where East Timorese are forced to renounce past links with the Independence movement. He repeated earlier charges that human rights continue to be abused in the former Portuguese colony.

Radio Australia's Ian Mackintosh in Dili quoted the Bishop as saying it was the church's moral and spiritual duty to speak out against human rights abuse and injustice.

At the ceremonies to which Bishop Belo was referring, East Timorese are required to drink chicken or animal blood mixed with wine, then sign an oath of allegiance. The Indonesian authorities say it is a traditional Timorese oath of peace. The Bishop said such ceremonies have taken place in all the districts of East Timor.

"For me and for us from the church, this is a form of pressure on the people, forcing them to say what they don't want to say."

He also told Radio Australia that beatings and torture were continuing. The church has collected data and he wold soon write to the UN if the abuses continue.

The Bishop offered his own solution to break out of the pattern of violence that has plagued the territory for so long. "Give the Timorese some kind of autonomy. In Indonesia they don't like to talk about this but we must try to find a solution", he said.

Asked whether political events in Jakarta this month - when Suharto will be appointed president for a sixth term on 10 March -would provide impetus for change, the Bishop sounded pessimistic. He said that he held his present post for ten years during which time nothing had changed.